Gentlemen,

I welcome all of you who represent the religious life of the Indian Muslim community in its diverse facets and at different stages, and are also engaged in propagtion and defence of the religious disciplines, particuiarly the Shariah. I am not unaware of the fact that this conference of the All India Muslim Personal Law Board is being held at a right time in this historic city of Jaipur—a town also important from religious view-point. Not far from this place is the city of Tonk which had the privilege of offering shelter to the fighters of faith returning from Balakot, whose lives had been saved by the Providence to present a living illustration of the virtuous life devoted to the cause of God.

I am speaking of the relations and dependants of Saiyid Ahmad Shaheed, the great Mujaddid and warrior of the thirteenth century of Islamic era, who had migrated with him to lay down their lives fighting in the way of God. These were those disciples of the Saiyid for whom the Providence had willed to become paragons of goodness and virtue instead of yielding their lives in His way. These were the followers who answerd this description by God :

> 'Of the believers are man who are true to that which they covenanted with Allah. Some of them have paid their vow by death (in battle), and some still are waiting ; and they have not

altered in the least.

(XXXIII : 23)

These were the men who had migrated to Tonk on the insistence of Nawab Vazir-ud-daula, the ruler of Tonk state, who was a sincere follower of the Saiyid. These men of God had selected that part of the city for their residence which is still known as Qafila.

These emigrants of Tonk were meticulous not only in their beliefs and religious observances but were also particular in adhering to Shariah in their day-to-day affairs, manners and behaviour. They had kept away from all those customs and usages which had then been adopted by the Muslim masses from their neighbours. These rites and customs had at places replaced the religious injunctions, but being contemptuous of every thing un-Islamic these virtuous sons of Islam had so completely adhered to Islamic norms that they reminded one of the pious men of bygone ages. This was the result of the guidance and companionship of Saiyid Ahmad Shaheed and Shah Ismail Shaheed.

The state of Tonk had the distinction of adopting the Shariah as the law of the land under the guidance and supervision of eminent scholars, traditionists and jurists. The proximity of Tonk from the place I am speaking reminds me of a couplet of Iqbal :

> Traces of fire once lit here and the broken tent strings there,
> Who knows, how many Caravans had an stoppage here.

With this background the venue of the meeting also indicates that this conference is being held for the first time at a place where lies in his grave the great spiritual conqueror of India. He did not conquer the land but conquered the hearts and left a deep impact on the faith, culture and social life of people. He made the Islamic conquest real, effective, deep and eternal. I mean Hazrat Khawaja Moinuddin Chishti who lies in peace in his grave at Ajmer.

> The sky is to shower dew drops on his grave,
> The new lush green grass be the guard of this house.

Friends

Returning to the subject of discussion I would submit that a basic difference between Islam and other religions, their cultures and societies is that in Islam the marital relationship between man and woman, the personal rapport between them and their duties and obligations form a part of the revealed religion aided by divine injunctions and practices of the holy Prophet. All these matters may in other religions, cultures and societies be treated just as a social necessity, some thing culturally desirable or even a means of sensual gratification. This is the distinctive feature of Islamic teachings for it regards the female partner as a divine favour and source of affection, harmony and happiness. In this Surah the revelation from God states :

"And of His signs is this : He created for you

helpmates from yourselves that you might find rest in them, and He ordained between you love and mercy. So herein are portents for folks who reflect.

(XXX : 21)

The purpose of creation of woman and its relevance to the marital life is undoubtedly a favour from God. The Prophet has also left detailed instructions through his own practice for a good and contented life. The instructions given by the Prophet in this regard leave no doubt about the place of honour occupied by ones spouse. A few of these sayings of the Prophet are cited here by way of illustration.

Ayesha relates that Prophet (peace be upon him) said : "The best among you is one who is most cordial to his family members and I am more gracious to my family members than any one of you."

The claim made by the Prophet is attested by his companions.

"Anas relates that he had not seen any one more kind and generous to his family members than the Prophet."

Amr bin al Haus Joushmi relates that on the occassion of Farewell Pilgrimage the Prophet first praised Allah in his sermon and then said, "You should be courtious to your women for they are your helpmates and spouses. It is their right that you clothe and feed them generously".

Abu Haraira relates that the Prophet said, "The perfect of faith among the believers is he who is most affable and those amongst your are better who are more nice to their wives".

The Apostle of God is also reported to have said, "The world is a sufferable place and the most precious thing it contains is a virtuous wife".

The sermon holy Prophet delivered on the occassion of a marriage shows the significance he attached to the marital bond, He recited the opening verses of Surah Nisa which first speaks of the origin of human beings. Adam was the first man created by God and he along-with his spouse filled this world with the billions of men and women it contains. The illusion here is to the blessing this world has witnessed due to love and affection between Adam and his wife. God can in a similar way bless any couple to become the progenitors of a large family or clan. The verse than goes on to say that the couple should honour the name of God which has united them. The way one implores another person to fullfil his needs and the other accepts the same is, in truth, the very foundation of civilized existence. What does a marriage really mean. It is a demand made by one family to another for meeting a just and legitimate need of one of its members. It amounts to the request for making the life of a young man complete and purposeful. Another family comes forward and graciously accepts the demand and thus unite two different individuals who might have been quite strangers to one another. The invocation of the name of God blesses

the two individuals, makes permissible what was unlawful for them, unites them as one soul with two bodies and makes the interest of one the concern of the other. That is why God commands man to live up to that sacred name for it would be unbecoming to enjoy the benefits conferred by the name of Allah and then forget the obligations arising out of that. The verse then draws attention to the responsibilities one owes to his other relatives for the new alliance does in no way brings to an end the old relationships. Lest man should think that he has the liberty to do whatever he likes, the verse goes on to say :

"Lo ! Allah always watches over you."

Now compare these teachings of Islam with the status granted to women by the ancient religions and civilizations. Here it would be relevant to cite a few non-Muslim scholars and legal experts of the West since certain juristic scholars and unenlightened Muslims have provided an occassion to the country's English and Hindi press to citicize and ridicule the Muslim Personal Law and the position of women in Islam.

We shall give here the opinions of only a few scholars of whom Mrs. Annie Besant is the first. She was the founder of a reformative movement in India and an active worker in the struggle for freedom of India. She says :

"........It must be remembered that the law of Islam in relation to women was until lately, when parts of it

have been imitated in England as the most just law, as far as women are concerned, to be found in the world. Dealing with property, dealing with rights of succession and so on, dealing with cases of divorce, it was far beyond the law of the West, in the respect which was paid to the rights of women. These things are forgotten while people are hypnotized by the words monogamy and polygamy and do not look at what lies behind it in the Wast—the frightful degradation of women who are thrown into the streets when their first protectors, weary of them, no longer give them any assistance."[1]

Another scholar N. C. Coulson writes in *A History of Islamic Law* :

"Without doubt it is the general subject of the position of women, married women in particular, which occupies pride of place in the Quranic laws. Rules on marriage and divorce are numerous and varied, and, with their general objective of the improvement of women's status, represent some of the most radical reforms of the Arabian customary law effected in the Quran.........She is now endowed with a legal competence she did not possess before. In the laws of divorce the supreme innovation of the Quran lies in the introduction of the 'waiting period' (*idda*)."[2]

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1. Annie Besant, *The Life and Teachings of Mohammed*, Madras 1932, page 3.
2. N. J. Coulson, *Islamic Surveys*: *A History of Islamic Law*, Edinburgh, 1971, page 14.

Describing the process of emanicipation of women the *Encyclopedia of Religion and Ethics* observes.

"Certainly the Prophet raised the status of women above that assigned to them in ancient Arabia, in particular; the women was no longer a mere heritable chattel of her deceased husband's estate but was herself capable of inheriting; while, again a free women could not now be forced into marriage, and, in cases of divorce, the husband was required to let the wife retain what he gave her at marriage. Moreover women of upper classes might occupy themselves with poetry and science and even act as teachers, while those of lower rank shared the joys and sorrows of their husbands as mistresses of their household. The mother likewise must be treated with respect."[1]

A conference of Oriental Studies of the International Congress of Comparative Law was held in Paris on 7th July 1951 which was attended by eminent scholars and professors of law from both the East and the West. The resolution finally adopted by it acknowledged the Shariah's capacity to reconcile stability with the changing needs of life. It said :

"The delegates, being interested in the problems brought about during the Week of Islamic Law and the discussions which demonstrated the indisputable value of the principles of Islamic Law and the fact that the variety

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1. *Encyclopedia of Religion and Ethics*, Edinburg, 1912, Volume V, page 271.

of schools within this great juridical system implies a wealth of judicial elements and remarkable techniques, allowing this law to respond to all needs of adaptation required by modern life".[1]

Gentlemen

All those who keep themselves abreast of the times would remember that after the Supreme Court decision on maintenance to the divorced women the Muslim Personal Law Board had launched a country-wide movement which besides being restrained and non-violent, enjoyed the support of all the different sections of the Indian Muslims. The movement was unique in nature and unparalleled after the Khilafat Movement. However, the non-Muslim journalists, intellectuals and even the masses reacted vociferously with the sentiments of fear, anger and hatred as if there was some aggression or some natural calamity had befallen the country. This was neither realistic nor showed the sense of proportion so essential for facing any problem. The attention and exertion required for averting any trouble has always to be commensurate as practical wisdom never commends making mountain out of a mole-hill. But this is what had happened. We all know about the bride burnings for dowry. According to *Qaumi Awaz* dated 10th June 1984 (Delhi issue) one newly-wed women is burnt every twelve hours in Delhi alone. In this part of the country where we have assembled today, the custom of

1. *Islamic Studies Quarterly*,, Volume 23, No. 4.

Sati has still not been eradicated. Was it not necessary, then, that more attention should have been paid to the stamping out of these tyrannical practices than the hue and cry raised against the Muslim Personal Law and replacing it by a common civil code. That the common civil code will bring about unity and integrity in the country is merely an unrealistic idealism belied by the last two World wars which were fought by two Protestant nations having the same personal laws and civil code.

It should never be lost sight of that in Islam women do not become strangers to their family, parent and brothers after their marriage nor a divorced Muslim woman becomes so isolated and lonesome that she is forced to commit suicide or take resort to begging. Whether she is married or divorced she remains a member of her parent's family, if they are alive, and a sister of her brother. She is entitled to inheritance as commanded by the Shariah and the Quran.

Contrarily, in the Hindu society a woman is deemed to have been completely detached from her parents, brothers and sisters. Her maintenance becomes the sole responsibility of her husband and after his death, she becomes forlorn and desolate. It was this concept of society which had in the ancient times given birth to the custom of Sati for it was the only way left open for a widow to get rid of her unending troublesome life of widowhood.

Gentlemen,

The historic achievement of the Muslim Personal

Law Board in getting an enactment passed by a clear majority of Parliment which annuled the Supreme Court judgement in regard to maintenance to the widows for the rest of their lives, was a victory of Muslim masses. But we have still to go a long way in the defence of the Shariah end the Muslim Personal Law.

The first of these issues which is engaging the attention of the Board is that the courts in some of the states are awarding maintenance to the divorced women which is a clear violation of the Law enacted by the Central government. The executive of the Board and its legal experts are paying attention to it and have filed serveral suits in this connection. It was the duty of the Central government and the ministers for law and justice to have checked this legal anomaly.

A delegation of the Board had called upon the ex-Prime Minister Sri V. P. Singh and invited his attention towards this problem. But unfortunately he did not honour the promise made by him and the subsequent governments have also failed to do anything in the matter. It is therefore essential that we should peacefully continue to register our protest and fight the matter in courts else our labours might prove in vain.

One of the most important and basic objectives of the Board is reformation of the society. Efforts have been made in this connection: tours have been organised and public meetings convened of which the largest was held at Gandhi Maidan in Patna on 1st March 1992. It is necessary to continue this campaign

of tours and meetings at different places and draw the attention of the people through religious conferences and sermons delivered in the mosques to reform themselves.

The need for an exhaustive and authentic compilation of Muslims Personal Laws has been felt for a long time. This compilation should be comprehensive enough to serve as a reference work both in Darul Qazats and the courts of Law.

The British rulers got works on Mohammedan Law written by Muslim jurists of which the two, by Justice Amir Ali and Justice Abdur Rahim, were the most prominent and relied upon by lawyers and judges.

But the need of a work written painstakingly by scholars well-versed in *fiqh* and *hadith* was still felt. Such a work had to be so exhaustive and reliable as to be used as a reference book on the subject.

Maulana Syed Minnat Ullah Rahmani, the founder of the Muslim Personal Law Board was first to visualise the necessity of such a work. It speaks volumes of his prudence and farsightedness. The work on it was started at Monger under his guidance, but he left this fleeting world before it could be completed.

The Personal Law Board and the Amarat-i-Shariah, Bihar have continued to work on the project. The work was at last completed in the Rabi-ul-Awwal, 1414 A. H. when several eminent scholars and experts of

Muslim Law assembled in Monger and Patna to give it the final touches. It is a compilation of Muslim Personal Laws by sections and clauses like modern legal enactments.[1]

It is essential that this compilation is now translated into English so that the lawyers and judges should be able to consult this work instead of the old works on Mohammedan Law as an authentic reference book on the subject.

Friends,

Now I would like to talk to you as a religious scholar and a representative of the Muslim Personal Law Board. I feel it a duty to do so lest, in the eyes of God, the precious time we have spent here may not be deemed to have been spent gainfully. I would reiterate the request earlier made at the Delhi Conference held on November 23-24, 1991.

Now rivet your mind's eye to yaur ownself and consider what regard are you paying to the Quranic

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1. Those who devoted more time and energy to this important work were Maulana Mufti Niamat Ullah (Mufti Imarat-i-Shariah), Maulana Burhanuddin Sambhali (Darul Uloom Nadwatul Ulema), Maulana Mufti Ahmad Ali Saeed (Darul Uloom Waqf), Maulana Zafiruddin (Darul Uloom Deoband), Maulana Nasrullah (Mufti Imarat-i-Shariah) and Maulana Qazi Mujahidul Islam (Qazi Imarat-i-Shariah). Maulana Wali Rahmani (Sajjada Nashin Khanqah Rahmaniyah) also helped and hosted the guest scholars.

social laws and how much precedence are you giving to the family traditions, customs and rites over them? Also see what part of these customs and usages have been taken over by you from your sister communities? From whom have we learnt to make excessive demands of dowry? Whatever name be given to it, but what is the origin of it? Has it been a custom borrowed from Makkah and Madina or commanded by the Quran? Is it not an evil? And whenever you practice it, do you not besmirch the fair name of your community?

I have at times to make complaints to the government and also to our sister community in the country. Then why should I not have a right to complain to you? But when I have a grouse against you, I would naturally be more demanding than I am to others because it will be a charge on behalf of the Shariah. The Shariah would ask you how far are you treading the path shown by it; what regard have you for it in your lives? You are absolutely free and competent to enforce these laws in your own families, but are you doing so? Then how are you asking the government to enforce it for you?

Pledge yourself here and now that you would henceforth follow the Shariah. What a calamity is this practice of dowry! There is a long list of demands from the side of bridegroom, pre-conditions are laid down and the non-fulfilment of such demands results in tragic incidents in this country.[1] But will God the Lord and Creator of both the man and woman put up with this heartless cruelty? Can any country and society prosper with it and can it hope for God's mercy? You are the

followers of that Prophet who is known as the Mercy for the Worlds. Nobody should dare commit such a crime after his advent. As I had once reminded you of it in a meeing at Delhi, God says:

> "But Allah would not punish them while thou be with them, nor he will punish them while they seek forgiveness."

You are the followers of the Prophet who is called Mercy for the Worlds. It is beyond comprehension that this brutality should have continued in a country where you are present. It is shameful for others, let alone that it should be committed by some of you. Now take a pledge that you will settle marriages in an upright manner. You should seek brides for you or your sons unaccompanied by burdensome demands of dowry. You should testify that you would put an end to this evil custom not only in your society but in the whole country.

Inheritance should be distributed among the heirs in accordance with the Shariah, and so should you contract marriages. Find out the legal method of divorce, the ways commendable and permissible. You should also try to understand what the revocable and irrevocable divorces mean. You ought to know that the holy Prophet has described divorce as something permissible but disgusting. It has to be the last resort and adopted when there is no other way out, when the life of the couple becomes a hell. It should not be something that is in vogue amongst you. If Muslims are derided for it,

we are responsible for the reproach to a certain extent ; but not to the extent they try to make out.[1]

Friends,

You shall go to your homes after the conclusion of the conference which is being held at Jaipur under the auspices of Jamia Hidayet. You have to go back with a comprehensive guidance as the name of this institution alludes. May you be able to refashion your lives, your family and social affairs and performance of your duties and obligations in the light of divine guidance. May it help you to present such a fair picture of you family and social life not only before the Muslims alone but before the non-Muslims also that it may make one and all appreciate and accept the teachings of Islam.

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1. The rate of divorce among Muslims is more often exaggerated.